

REMARKS

By this amendment, applicants have amended claims 4, 5, 20-23, 25-27 and 33-35 to eliminate the alleged indefiniteness problems noted by the Examiner in numbered section 2 of the Office Action. Applicants have canceled non-elected claims 7-11, 13, 15-19 and 28-31 without prejudice or disclaimer.

In view of the foregoing amendments to claims 4, 5, 20-23, 25-27 and 33-35, it is submitted all of the claims now in the application comply with the requirements of 35 U.S.C. 112, second paragraph. Therefore, reconsideration and withdrawal of the rejection of claims 4, 5, 20-23, 25-27 and 33-35 under 35 U.S.C. 112, second paragraph, are requested.

Claims 1-6, 12, 14, 20-27 and 32-35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,934,856 to Asakawa et al. in view of JP 4-108531 to Kato et al. (using U.S. Patent No. 5,349,762 to Kato et al. as an English translation) and U.S. Patent No. 5,882,165 to Maydan et al. Applicants traverse this rejection and request reconsideration thereof.

The present invention relates, inter alia, a vacuum processing apparatus. The apparatus includes a cassette table, a load lock chamber, a first transferring device for transferring a dummy sample from one of a plurality of cassettes to the load lock chamber or transferring it from the load lock chamber to one cassette, a transferring chamber for transferring the dummy sample in a vacuum condition, a plurality of vacuum processing chambers connected to the transferring chamber, and a second transferring device arranged in the transferring chamber for transferring the dummy sample between the load lock chamber and the plurality of vacuum processing chambers. The load lock chamber includes a first support member, while a second support member is arranged in each of the plurality of processing chambers to

support the dummy sample one by one. A first sample lifting mechanism is provided and is capable of moving up and or moving down the first supporting member so as to transfer the dummy sample to the second transferring device, a second sample lifting mechanism is also provided. As set forth in independent claims 1 and 14, the second lifting mechanism can be arranged at the second support member in each of the processing chambers. As set forth in independent claim 12, the second sample lifting mechanism is capable of effecting relative vertical movement between the second support member and the second transferring device so as to transfer the dummy sample between the second support member and the second transferring device. A controller is provided for controlling, inter alia, the transfer of the dummy sample.

The Asakawa et al. patent issued on August 10, 1999 based on an application filed April 28, 1997. The subject application claims benefit of the filing date, under 35 U.S.C. 120, of, Inter alia, Serial No. 08/677,682, filed July 8, 1996. Noting that the filing date of Asakawa et al. is after the effective United States filing date of the subject application, it appears the Examiner must be relying on the filing date of the parent application of Asakawa et al., Serial No. 08/447,247, filed May 22, 1995, of which the Asakawa et al. patent claims continuation-in-part status. However, the Asakawa et al. patent can be prior under 35 U.S.C. 102(e) as of May 22, 1995 only for subject matter properly supported in prior art application Serial No. 08/447,247. See, Manual of Patent Examining Procedure (MPEP) 706.02(f)(1), MPEP 2136.02-03. Noting that Serial No. 08/447,247 is not available as an image file wrapper, it is incumbent upon the Examiner to provide Applicants with a copy of Application No. 08/447,247 in order to support any rejection over the Asakawa et al patent. It is also necessary to establish that the subject matter upon which the Examiner relies is fully

supported in Serial No. 08/447,247. Until the Examiner provides Applicants with a copy of Serial No. 08/447,247 and shows support therein for the subject matter upon which the Examiner relies, the rejection in the outstanding Office Action must be withdrawn.

Moreover, as noted by the Examiner, the Asakawa et al. patent does not disclose the presently claimed invention. In particular, the Asakawa et al. patent does not disclose, inter alia, a first transferring device capable of vertical operation or the first and second sample lifting mechanisms presently claimed. Moreover, it is submitted the Asakawa et al. patent does not disclose the controller presently recited for, inter alia, transferring of a dummy sample. While the Examiner relies on the Kato et al. and Maydan et al. documents as showing these features, it is submitted the Examiner's rejection selectively picks and chooses various features of the Kato et al. and Maydan et al. documents without providing any motivation for doing so. Absent some suggestion or motivation in the prior art for making the modifications urged by the Examiner, it is submitted the documents do not suggest the presently claimed invention. Accordingly, whether or not the Asakawa et al. patent is prior art to the present invention, it is submitted the presently claimed invention is patentable over the proposed combination of documents.

In response to the obviousness-type double patenting rejection in numbered section 6 of the Office Action, Applicants are submitting herewith a timely filed and properly executed Terminal Disclaimer under 37 CFR 1.321(c). Accordingly, reconsideration and withdrawal of the obviousness-type double patenting rejection are requested.

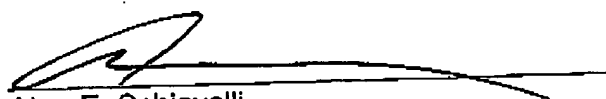
The Terminal Disclaimer has been filed in order to advance the prosecution of the application is not an admission of the propriety of the double patenting rejection.

In view of the foregoing amendments and remarks, favorable reconsideration and allowance of all the claims now in the application are requested.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 520.34692V17), and please credit any excess fees to such deposit account.

Respectfully submitted,

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